

In In re Magsafe, supra, the Ninth Circuit reversed the imposition of a \$15,000 appeal bond, and held that an appeal bond may not exceed "the amount that a prevailing appellee would be entitled to recover from a losing appellant under FRAP 39." *Id.*

Because *Nutella* was wrongly decided, the Court should deny the motion to impose any appeal bond. If the Court does impose an appeal bond, however, it should err in favor of the Appellants in setting the amount of the bond, and should set the bond at the minimum of the range estimated by the Administrator, or \$21,000, and include nothing for briefing costs because the Plaintiffs did not make a serious effort to estimate the realistic briefing costs they expect to incur in defending this appeal. Therefore, this Court should set a bond of no more than \$21,000.

Respectfully submitted,
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By her attorneys,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on July 20, 2015, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ Vincent S. Verdiramo
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